

**Excerpt from the
Monday, August 5, 2002
CITY PLANNING COMMISSION
MINUTES
220 City Hall
Minneapolis, Minnesota 55415
4:30 p.m.**

45. Block bounded by Hennepin Avenue, North 6th Street, First Avenue North, and North 7th Street (5th Ward - CU-1000141) (BZZ-719)

Application by Block E Interests, LLC for amendment of a conditional use permit to allow a mixed use, planned unit development. The developer's application calls for the following: hotel, including ballroom and conference center; cinema complex; retail, including four to six restaurants; underground parking garage of approximately 563 spaces; loading facilities, stairs/mechanical; interior public space; and, exterior public plazas. This item was continued at the July 8, 2002 meeting. (Staff, Jack Byers)

Jack Byers presented the staff report. He noted in the conditions of approval there was a typo and two conditions were numbered eleven. He referred to them as 11 and 11a.

President Martin noted for the record that a number of Planning Commissioners, herself included, and Commissioners Krause, Krueger, Nestingen and LaShomb had tours of this project over the last few weeks with the developers representatives. Most of the Commissioners understood some of the issues that the developer was trying to argue having walked through the building and yet many of them remained convinced that what staff was presenting were legitimate public concerns.

Commissioner LaShomb thought it was an interesting tour and was grateful to have made the tour. He wished they were able to tour more projects. His overall reaction from the tour was on the one side to recognize that this was a first class entertainment center and they should be happy about that and it would make Block E a wonderful place. But, he thought the symbolism on the second piece of it was the replica of the Hennepin Avenue bridge, which he had walked over many times, which reminded him that this Block E facility was a transition piece, it was a bridge and allowed people to move from the Warehouse District to City Center. He was thinking about the kinds of individuals that would be walking through there and the times of day that they would be doing it and how they would be affected. Commuters in the morning who didn't want to take the "lower route" would probably come from the Target Center from the huge garages and make their way through. Many of them would be drinking coffee in their car when they got to the garages and they might have some desire to have a convenient bridge. At the noon hour there would be a lot of people coming from the Arena health club, now most people are on the sidewalks any day of the year, good or bad weather. At night there will be a large number of people either coming from the Warehouse District bars and restaurants or from the Target Center depending on the event. You have to look at this not simply as an entertainment center, but it would be an excellent entertainment center. He thought the key point was that it was a transient bridge and that bridge piece he thought a lot of the issues that they would be discussing really related to that bridge piece more than to the entertainment piece. He was grateful for the tour and even got to see one of the hotel rooms. It reinforced in his mind that this wasn't the end of the line, this was the middle of a sequence of venues and they needed to look at it that way.

Commissioner Schiff noted that he toured the project as well back in March.

President Martin stated that the rules for the public hearing were that five issues had been identified by staff that were of specific concern to prior Planning Commission approvals. Those were the only topics they were going to talk about and the only things they wanted to hear about. For the record, the Commission heard a lot about public restrooms last time and she didn't believe there needed to be a lot of public testimony about the need for restrooms. The Commission got that one.

The public hearing was opened.

Becky Rom, representing Block E Interests, stated with her were Dan McCaffery who was the principal in Block E Interests and Joe Antunovich who was the project architect. They were there to answer questions. Mr. Antunovich had a PowerPoint presentation and could take the Commission through some of the important issues that related to those five points, in particular circulation patterns which she thought were of interest to everyone and the location of the public bathrooms and he could answer questions. After Mr. McCaffery and Mr. Antunovich answered questions, she wanted to go through the conditions on the CUP, PUD and site plan that Jack Byers had recommended. Some of them were acceptable to the developer, some of them they would like to have changed.

President Martin stated that she polled the Commissioners before they began and because most of them had seen the project at one point or another, they didn't believe they needed a PowerPoint presentation.

Dan McCaffery, Principal of McCaffery Interests, indicated in many respects they never expected to be here. Up front he wanted to say that there had been inferences made that they "dodged" the Commission. Never in his wildest dream would he ever think of dodging the Commission, there was no reason to dodge the Commission, they were very proud of what they were building. They were never directed to the Commission. Issues such as the outdoor escalators had been common knowledge to people in various, if not every department in the City for more than a year. It was never mentioned to him that he ought to talk this over with the Planning Commission. The first hint that they had to go to the Planning Commission was June 18th. Even at that meeting they were told everything was OK, but they really "should explain the bus shelters one day." That was the concluding comment at a meeting at the Planning Department and they had had six since then with various members of various departments. He wasn't trying to pick on the Planning Department, he wanted rather to express had there been a process outlined to them to bring any issue to the Commission that he couldn't defend and they changed it, it would be changed. They were never directed to the Commission. Now, they were directed to the Commission when the project was basically completed. He wanted to point out as one example the bus shelters. The bus shelters were his idea. Sorry, but they weren't the Commissions idea. They may have been on the plans that the Commission saw. On the plans that the Commission saw back in May, 2000, they were grouped within the fire exit. He wasn't even sure they were legal the way they drew them in 2000. After staying in this City for any number of nights and observing the enclosed bus shelter on 8th Street, it was recommended to him by Mr. Graves who was also with them, the developer of the hotel, "Dan, don't do that. Don't indent those bus shelters."

President Martin asked if he was talking about a picture that she held up?

Mr. McCaffery replied no, it would be in the plan and showed it. Anyway, he said don't do it. From, and after that moment, they were directed to the Hennepin Avenue Advisory Committee, they were directed to the Metro Transit Staff, they were directed to Public Works, they were not directed to, the MCDA sat in every meeting with them as City representatives, and everybody approved the thing unanimously. Again, at not one moment in their time was there any deception to cut corners, they were proud of this project and wanted the project to be absolutely fantastic in this City. They were not cutting corners. With that, he asked Mr. Antunovich to address the issues.

Joe Antunovich, project architect, stated because they were on the bus shelters, he would continue on that vein. As you can see, (shown on the overhead) the bus shelters were illustrated at the base of the exit stairs. They simply had recessed the exit stair core five feet from the property line and had made a little indentation approximately 27 feet wide. They had received the comments from Planning in the last week and they would be willing to work with Planning on their solution on providing a canopy at this location of the stair. A canopy that would provide the amenities that Planning had suggested, so in that regard they thought that Planning had a good idea.

Mr. McCaffery concurred that was absolutely right. In fact, they would have been willing at any time to listen to a suggestion.

President Martin stated with respect to the bus shelters, if she was not speaking out of turn, a number of the Commissioners who did tour the project were appalled that they got the permit they did to put bus shelters on the sidewalks because there was no room on the street to walk once the bus shelters were up. It felt really crowded.

Mr. McCaffery stated by way of being somewhat light on the issue, he really couldn't wait to find the day when there was a pedestrian problem on the sidewalk in downtown. As Council Member Schiff said, crowded is good. It was a little tight, he would grant that.

Mr. Antunovich indicated he had a collection of photographs where he visited other bus shelters constructed within a few blocks of their project and had yet to see on a summers day one person actually inside of one of those bus shelters.

President Martin commented even on winter days there weren't many people in them.

Mr. Antunovich stated he made that statement and was corrected by everyone around him, but agreed with President Martin. That was the first issue. The second issue regarding the restrooms, they had agreed to place...., the first floor had changed significantly. They were agreeing to put two single sex bathrooms in on the second floor, accessible to all. The area on the second floor was not just by two tenants. This in fact was the major intersection of their entertainment complex. This was the point at which 3,800 people could go up to the fifteen screens on the second floor via the escalators at that point. That was the point at which one could go to the Improv Comedy Club, one could even walk down the stairs to one of their fabulous tenants, the Hard Rock Café on the first floor. Gameworks a 40,000 square foot tenant actually had access almost 60 feet of access from this area (shown on the overhead) and one could also escalate down to a deep tenant that had escalators in the heart. There were other tenants around, but with all of that active interaction, that was the crossroads of the entertainment complex of their project.

Mr. McCaffery indicated in response to Mr. Byers comment about the public aura, he displayed the plan (roughly) that the Commission approved in 2000 and the Commission will notice that there were food court operations. His memory served him well when he said that it was Commissioner Bradley that suggested that they have windows at that spot looking over the Target Center. He wasn't really receptive and remembered that it annoyed him, but he had no choice but to listen. Ironically, when they went away, and another thing that the Council should know at that moment in time, they had not one lease, nothing signed because they weren't approved by the City. They had no leases. They then met with the Crown Theater people who said that they had 3,800 people going up and down and the way they had permitted them to move up and down was not sufficient. Then Commissioner Bradley's idea became very germane to them where they moved all of those food operators out of there and put the escalators at that spot so that the escalators could be visible from the street and there would be more room for the transfer of as many as 7,600 people. He recognized that they were staggered when the movies stopped and started. The food court was then moved downstairs. He never thought of coming back to the Commission. He apologized, had he known that he should go back to the Commission to say that they were moving the food court, they would have been here because they had very good reasons to do it and he knew they would have approved it. It was either move the food court or not have Crown Theaters. When they moved the food court downstairs, a number of other issues impacted it. The hotel and on the main level (he showed it on the overhead), if you could imagine that tenant and there being a through cross walk, cross way, transition area, that tenant said to him, "Dan, you are providing a way for people not to come by my front door." So, how are you [the Commission] going to be telling me I'm getting people out on the sidewalk? There was a perfect illustration of this, and he plead guilty, he helped develop Gaviidae Common and they brought Cole Hahn to this town, one of the finest shoe stores in the nation, maybe the finest. They have a front door on the number one retail street, you can't get in it. It was permanently locked, because we, the developer, short circuited the people on the sidewalk by putting a corridor behind the front door. Cole Hahn was left with no option but to lock that door. It hadn't been opened in seven or eight years. Ironical, but true. They didn't want to repeat the mistake. They didn't want to short-circuit those people that when they read the real motivation behind this project was bring life to the street. They had to live with the skyway, Minneapolis was committed to skyways, absolutely committed to skyways. But to follow his finger, if you have arrived at this corner at City Center, (shown on overhead) and you cross this street, where are you going? Target Center? What's wrong with that sidewalk? If you were going to this tenant, you go in the front door, he showed the front doors to the movies, front door or side door to Hard Rock. The rationale behind moving the interior corridor had so much to do with circulation, but the word circulation was thrown in his face as though they had impaired the circulation. He thought they could show the Commission they had improved the circulation. They would bring what was the characteristic of the Warehouse District to the Warehouse District and that was stay on the sidewalks, get on the sidewalks and walk. There was no skyway going into 1st Avenue and they had 1,200 people a night, almost without fail. And they didn't find it a hardship. Again, he wanted the Commission to know the motivation was to make their project, the City of Minneapolis' and his, a success not a failure.

Mr. Antunovich indicated on the first floor there were two lobby areas that actually escalate the public, from the area under the theater marquee that was on Hennepin and they escalate up at that point. Those lobbies were less than 1,000 square feet a piece and they were proposing to place the public restrooms on the second floor as he had mentioned earlier, he displayed the location, monitored by people who were at the ticket booth. He showed the location of the theater ticket booth, along with the area for the tickets for the Improv. They (restrooms) were monitored at all times during the times that the skyway was open. As far as the programming of that area, he thought Mr. McCaffery had said, there was so much going on there. Right now they had a tenant (he displayed the location), Cold Stone Creamery and he hoped that everyone would shop there. They had a requirement in their lease for some outdoor seating at that point overlooking the glass that overlooked 1st Avenue. He believed that covered three of the items that they were discussing.

Mr. McCaffery noted that the other one was the exterior escalators. He wanted the Commission to know that there were quite a number of letters that went back between their development team and the City of Minneapolis and State of Minnesota and visits to the State of Minnesota and the City of Minneapolis to have those escalators approved. He got a letter back, which he could produce, that said that they couldn't do them because escalators do not operate, this came from the State Inspector he thought, escalators cannot be operated in temperatures of less than 45 degrees and more than 75 degrees. To which he wrote back to the State inspector and copied the City, he invited him to go skiing with him at any weekend to Beaver Creek, Aspen, Vail, Tahoe, they all had outdoor escalators and none of them were enclosed in plastic. The argument went on, the debate went on despite their advising to the contrary to the point where the steel was being laid. Those of you that know building, at some point you have either lost your argument or won your argument because you have got to build the building. Despite their best efforts, they could not get approval. Everyone in the City knew about that and everyone acknowledged that they couldn't get them approved.

Mr. Antunovich indicated that their solution to this matter was to provide access through stairwells at points that he displayed on the overhead, which was immediately adjacent the skyway and another point which was immediately adjacent to the Improv and to the Hard Rock Café. Contrary to Mr. Byers indications earlier, they had passed that by the Fire Department and had an Email from the Fire Department approving, he thought when he came to the Committee of the Whole a few weeks ago he couldn't commit to that, he said they were still working on that with the Fire Department and within the Department of Inspections, so he was happy to report that the fire Department had signed off on that and that they would provide access from the ground floor. He showed the view if one was standing on 6th looking over the fountain to the stairwell, the exit stair that sat immediately adjacent to the skyway. They would sign it. The doors that would be there, would be painted on the inside much like they had painted other areas of the project on the interior. The door would access one up immediately to the skyway. A similar connection would be made alongside of Hard Rock Café going up to the Improv area. Again, those stairs would be painted. They had a telephone conversation with the Department of Inspections, Dan Callahan, and he indicated to a project architect Chuck Kennedy who was at the meeting, that he saw no code issues that would prevent that use from taking place.

Mr. McCaffery commented that they also walked the Fire Chief through and looked at it. He was reluctant to use the word “approved” because he didn’t know when something was or wasn’t approved. He indicated no objection, in fact he commended it. He was presuming that they could seek approval.

Mr. Antunovich indicated he thought with that presentation they had covered the issues that staff had mentioned. They had provided staff with detailed drawings and colored renderings and specifications for all of the exterior lighting down to calling out the fixtures and the number of foot candles for all of the fixtures. They had also been working with staff on the exterior signage. They had 26,000 square feet of signage approved on the exterior of the building. This would take time as they were leasing that signage to be installed over the next several months. They were working with staff on the exact disposition of each and every one of those pieces of signage.

President Martin excused herself from the meeting and Vice President Bradley assumed the Chair.

Vice President Bradley asked if the signage package that they were submitting and was being approved, was how the sign was going to be installed or was it going to evolve to some different shape, form, color, size?

Mr. McCaffery replied that they had no choice but to take a developers best guess at what the signage would look like when they made the presentations to the Commission. They had since then signed what amounted to a joint venture with Eller to guide them, lead them, in all of the exterior signage. Their deal required them to have, as they were required to have, not just poster boards. Those had all been studied and they had put in steel for each of them. They had all been submitted. It would be very hard to change, not that you couldn’t change them, but they were all established and he believed had been signed off on by Planning. Not evolving he didn’t think.

Vice President Bradley indicated he had a question about the elevators before they left that issue. The State, as he understood it, had jurisdiction over elevators and escalators, such that the City had to defer to the State. He was confused because there was a lot of paper and a lot of talk about escalators that was going in both directions. Could the escalators have been installed if they were enclosed?

Mr. McCaffery replied that he had heard that today and he wasn’t saying that wasn’t a fault in his company, he didn’t want to put everything onto the City, but he heard that today and that was not his understanding at the time. They were told at the time they wouldn’t operate within that temperature range. They were however, in one discussion he did recall being told, “they were going to have to work on this because they thought it was close to what they were planning for the light rail system.” At that time they were going, going, going and couldn’t wait for whatever resolution was made.

Vice President Bradley rephrased his question, could the escalators have been installed if they had been enclosed with temperature control?

Mr. McCaffery replied probably, yes.

Vice President Bradley indicated he had some notes from the year 2000 that said that they directed the escalators to be installed. He read from the staff report on May 4, 2000, page 27 referred to the project, “includes a direct vertical connection between the public plaza on the corner of 1st Avenue and North 6th street” it goes further to say, “this will serve as a link between street oriented retailing...” etc. and in parentheses the last part of the paragraph says, “this connection will need to be enclosed in a glass wall structure in order to protect escalators from the elements while maintaining maximum visibility of a vertical connection.” It goes on to say, “a similar connection should be incorporated into the Hennepin Avenue entrance.” His confusion, because he was an architect, and he heard that the City wouldn’t allow by code certain things that might impact him in his future, it may be that an exterior escalator would not be allowed, but one that was enclosed and had temperature control would have been allowed. That was part of where his confusion was and the question was if it had been enclosed and would have been allowed, why was that not pursued?

Mr. McCaffery replied number one he thought, and they should check to make sure they were absolutely sure, he would look, but the controversy came after that, after what Vice President Bradley was looking at. The controversy about the escalators, he didn’t know that the staff made a report that said that they had to put them in glass and so forth. Their drawings, their price, their budget was for the kind of escalators that he had seen at Vail and Beaver Creek, and so on with the temperature control.

Vice President Bradley stated they probably had something built into the system.

Mr. McCaffery indicated at the top so when you open the door, you don’t get blown all over.

Vice President Bradley indicated pressure control.

Mr. McCaffery replied yes, being inside the vestibule that they were building on the second floor.

Vice President Bradley indicated that he had no visual of what Mr. McCaffery was talking about because his skiing skills were just like his neuro surgery skills, non existent.

Mr. Antunovich stated that they also did a lot of work in Washington DC, and these were not unlike the escalators they find out in the open without coverage in Washington DC where the temperature does get down to ten degrees in the winter time and there was snow and ice and the escalators continued to work. That was the kind of escalator that they drew on the drawings that they explained to the Planning Commission was their intent and that they had not included on the drawings any enclosure at all. That was included in the staff report, but he believed that during the public testimony they had testified that they were preferring an open escalator based on their collective experiences and that was what they felt was a much more interactive element that they wanted for the project.

Vice President Bradley indicated that he had heard the comment that said that, “the building architect explained that enclosing these escalators in glass would undermine the open air character of this connection.” He thought there was a lot of confusion about it. He thought there was an expectation that didn’t get fulfilled and that was part of why they were standing here now. Having eliminated them, the people who live in Minnesota who know about snow, maybe they have different snow where they ski. Clearly that was cause for a lot of the energy that was being spent. He wanted to clarify the issue of the escalators.

Mr. McCaffery stated that there was one other letter that he should share with the Commission. The staff report said something like, they want the public toilets so that they could serve the elderly, the handicapped, people with children and so forth. He was put in a position of saying, “oh no they’re not going to do that.” He had nothing against the elderly, the handicapped, people with children or anyone else in accessibility of bathrooms, absolutely nothing. In fact, he would draw the Commissions attention to Michigan Avenue with all of the people that were there, there were not public bathrooms. People that were running a good, retail operation welcome people into their operation and say, please use the bathroom. It was somewhat less common in a place like a mall which they were trying not to build, The Mall of America, because they have so many clothing stores and so on who typically don’t invite you in. Their entire project was made up of restaurants and the book store and the book store was opened until 11:00 at night. You can go in there and were not even under the obligation to buy a book. You can sit down and read a magazine for three or four hours and they have eight or ten wash rooms. Once again, the idea that they did not have public washrooms in a way offended them. They had public washrooms, they were all over the place. There was not a restaurateur that was going to stop people from going in and using their public washrooms. But, they would build some extras and that was what they had committed to do. In talking this over with the Downtown Council, Sam Grabarski very much saw what Commissioner LaShomb was talking about which was the long trek and the people that were somewhat exercised at that moment. He had a letter which he had been authorized to submit that was directed to Council Member Schiff talking about the fact that the Downtown Council wanted to play an active role in solving this problem and not strictly just the debate between you and we and Block E. For example if in fact you are walking through the TAD ramp, maybe the TAD ramp restrooms would be open. He distributed the letter.

Commissioner Schiff indicated since they had spoken generally about the four major issues that were before the Commission, could they now recap succinctly how it was that they wished this Planning Commission to vote on those four issues? He heard them say that they found acceptable the Planning staff’s compromise on the shelters issue and their suggestion was for the awnings to be placed. If that was not correct, please correct him and also go through the other three.

Mr. McCaffery deferred to Ms. Rom to go through those.

Ms. Rom indicated that she was going to distribute a list of their recommended changes on the conditions and also walk through them. They went in order of the conditions in the staff recommendation. The underlined conditions were the recommended changes. The order in front of the Commission was applicable for the first two CUP's in the report. The third item was the site plan amendment and the actual condition number would change on the last two and she would give those numbers as well. In condition 3 (g) which was in the CUP, page 20 of the staff report, they had one recommended change. That dealt with the skyway level. Basically, they were saying that the last two sentences were acceptable, the space would be fully accessible to the general public during the general skyway hours. There were actually two skyway agreements between the MCDA and Block E that governed the skyway, it currently required a minimum of the skyway hours. MCDA and Block E could extend those hours and there would be no admission fee. What they were asking be deleted was essentially the first sentence of 3 (g) which was the definition and programming of the space, because they believed it was fully programmed at this point. The next item was condition 9. That dealt with the center escalator. This was what they called their "Marshall Fields" escalator that went from the skyway level down into tenant space. They were asking that the second sentence be deleted. The first sentence said that the tenants had to provide public access through the tenant space into the lobby and onto the sidewalk and that was acceptable. The second sentence said that if the tenant does not allow public access, that the escalator itself be removed from the project, in other words physically torn out. That was the one sentence that they would ask to be deleted from the staff recommendation. The last sentence of staff's recommendation was that the means of the connection be secured if the tenant space below was not open during uniform skyway hours or any time it was not open and that was acceptable. It would be secured just like Marshall fields when you walk through the skyway early in the morning on the way to work, those escalator connections were all blocked off so pedestrians knew they couldn't go down. That was basically what staff was asking and that was acceptable to them. Condition number ten which was the public restrooms was acceptable to Block E. That required the public restrooms on the second floor, the two ADA compliant, uni-sex bathrooms be directly accessible from the skyway, be available at a minimum during the uniform Skyway Hours. All of that was acceptable. Staff's proposed condition eleven, she didn't know Mr. Byers was going to call 11 and 11a, so she called them first 11 and second 11. First 11 was acceptable, that related to the through-block connection on the first floor. Staff had asked approval of having that eliminated. The lobbies would have very strong signage. There would be directional signage to get one into the lobbies and up onto the skyway, so that was acceptable. Second condition 11 they would like deleted and substituted in its entirety. This called for the construction of the exterior escalators. In its place they would like their substitute condition that recognized that both the Department of Inspections, Dan Callahan and the Fire Marshall have said that the two stairway connections off 1st Avenue may be used as entrance stairways to the skyway. They were being programmed to do that. The Commission had the drawings in front of them of one of the two entrances and stairways that showed that connection. They would like that stairway connection to be the substitute for condition 11. For condition 12 which called for the construction of indented bus shelters on 6th and 7th Street, that could not be done without breaking leases and reconstructing the building. They would like that substituted in its entirety. What the Commission had in front of them was that either free standing bus shelters or

canopies on 6th and 7th would be an acceptable substitute for the indented shelters. If you look at the site plan recommendation, which was on pages 23 and 24 of staffs recommendation, the number of the conditions changed. On the sheet distributed to Commissioners, condition 11, this being the second 11, would be site plan condition 7. Condition 12 on page 24 was now site plan condition 8.

Vice President Bradley clarified on the site plan conditions that was the freestanding bus shelters?

Ms. Rom replied correct, it was the escalators and freestanding bus shelters in the site plan.

Commissioner Krause indicated that he was prepared to move the language, but had a proposed substitute for the language on the last condition 12. Rather than saying “freestanding bus shelters or” to simply say “canopies cantilevered from the building with heating and lighting” and then continue with the rest of the sentence.

Vice President Bradley asked Commissioner Krause to repeat what he said.

Commissioner Krause replied he was saying rather than having freestanding bus shelters or canopies, that they simply use the canopies. The language could be, “canopies cantilevered from the building with heating and lighting on North 6th and North 7th street are and acceptable substitute....”

Vice President Bradley asked Ms. Rom if she had a response?

Commissioner Krause stated it was really clear in their deliberations that they thought the bus shelters created a problem for the City, there would be some dangerous conditions there because they thought people would step out into the street when it was that crowded. Yes, they wanted the streets to be crowded, but this would really be a bottle-neck.

Mr. McCaffery replied that they received a recommended diagram about how those might work and he was in the process of bringing them both to Borders and to Gameworks because they were going to impact a little on their visibility in and out of their stores. He thought that they could get that through and he was delighted to give it a good crack.

Vice President Bradley stated that the public hearing was still open and asked if there were any others that wanted to speak.

Andrew Hauer, 19 S. 1st Street, stated with the packets, the Commission should have received the resolution from the Downtown Minneapolis Neighborhood Association addressing some of these issues. What they were requesting was that the project would include public toilets, open 24-hours per day, on both the first floor and the second floor. Also, they wanted the enclosed glass exterior escalators and the other two were given in testimony. What he really wanted to address was that Downtown Minneapolis right now had a huge public urination problem. He gave prior testimony, but since that particular time had received some additional information from the Police Department. The arrests for public urination in Downtown Minneapolis between 2000 and 2001, arrests had increased by 95%. He displayed a map showing where the public urination was taking place. They were looking at the area that bordered the project on Block E. He showed

the hours that the actual arrests were being made. One can see that the arrests were between 10:00 PM and 2:00 AM. They were talking about the standard commercial hours within the skyway system right now. As Mr. Byers indicated, it was Monday through Friday, 6:30 AM to 10:00 PM, Saturday 9:30 AM to 8:00 PM and Sunday 12:00 PM to 6:00 PM. The facilities are not going to be available when the people need them. When they were talking about going through the skyway system with a cup of coffee and needing the facilities, you are not going to find..the substitute of two uni-sex toilets was unacceptable. It did not cover the situation. People have a need. There was a huge subsidy in this project of \$38,500,000, there was no reason at all that this project could not include, should not include 24-hour public toilets both on the first and second floor. Two toilets, when they talked about Borders having that many toilets open, right now go to Barnes and Nobles on 8th and Nicollet and walk in there. Their toilets were locked and you would find the same thing with Borders. They were going to lock them and the public was not going to have access to any of these multiple toilets. We need this particular developer who was receiving a huge subsidy to actually put in some decent public toilets that were open 24-hours a day to eliminate some of these problems.

Tim Cameron, 671 Spring St. NE, indicated that it was a load off his mind that he would only be commenting on the small list before them. It looked like the things that were on the agenda were issues of quality of life. It was surprising and terribly sad that this was the kind of thing that was “dressing” to squeeze a project like this through to approval and that they fall off as the project got built. It was sad to him that....it should be obvious the wisdom of a corridor from the energetic Warehouse District to the hopefully energetic and to most people, somewhat scary, Hennepin Avenue could bring a balance, shade, friendliness. This was an entire block and not understanding that that kind of an imposing structure, regardless of any attempt at mocking the “jive” of surrounding architecture, not understanding that the large structure would be an imposing and not a pleasant thing to be near. Not understanding that a walkway, its novelty, its pleasantness, its humanness would be important. It was silly. He thought that he was part of the “rubber stamp” that says they had a public hearing. He was glad to know that the developers in the city had been educated a little more about how to develop the City. He also would have made the connection that they should talk to them about making such obvious, public, quality of life changes, he would have done the same thing. It mattered about as much that he say that as it does that the developer said it.

Mr. McCaffery stated that he respected the statistics that were shown. He was very concerned about the very matters that were brought up. The only difference was the suggested solution. He drew to the Commissions attention that the Pantages was vacant and pretty much abandoned, as was the Skyway Theater. The entire Hennepin frontage in City Center had been left to be somewhat less than desirable. Block E was not under construction and it was an empty parking lot just West of Gluek’s. He thought that in fairness to everybody, there would be a lot more energy and a lot more people, a lot more public policing than had been in the past and hopefully would help satisfy some of the genuine concerns that the neighbors should have.

The public hearing was closed.

Commissioner Schiff indicated Mr. McCaffery said they moved the food court from the second floor to the first floor and asked for clarification where on the schematics the food court on the first floor was and how many tenant spaces there were?

Mr. McCaffery replied there was a modest miscommunication, they moved it to the first floor and subsequently removed it in totality. The hotel lobby got a lot bigger and a lot of things happened on the main floor that he thought had been huge improvements to the project, each of which squeezed out the food court.

Commissioner Schiff asked if there were any drawings showing on the inside what the experience was for the walker as they go in?

Mr. McCaffery replied that they didn't, but they forgot to mention that they would be doing new lighting, new painting, all of that on the inside.

Commissioner Schiff asked if they would be walking into a stairwell that looked like that (he showed a drawing)?

Mr. McCaffery replied no, that was all the way up six [floors], it would just go to two.

Commissioner Schiff indicated three stories of this, not six?

Mr. McCaffery indicated it should really be two switch-backs.

Vice President Bradley stated to take the crossed one out.

Commissioner Schiff clarified it would be just a single.

Mr. Antunovich noted that they took a drawing showing a section through the whole stair to illustrate that the public area would be from the first floor to the skyway level only. Those would be the only areas improved.

Commissioner Schiff asked if they could improve it any more?

Mr. McCaffery replied yes.

Commissioner Schiff stated that seemed so insufficient and didn't seem like the kind of experience they would want to create for people who were rushing into their....

Mr. McCaffery indicated that the sign would be neon and the door would be somewhat alive. It would be a nicer looking door.

Commissioner Schiff stated it sounded like "lipstick on a pig."

Mr. McCaffery replied unfortunately at this stage it had to be "lipstick."

Commissioner Schiff suggested that be reconfigured more, so that it was more prominent at the very least.

Mr. McCaffery responded they wouldn't accept it like that themselves.

Commissioner Krueger indicated seeing those stairways and of course they were not finished, they were just metal stairways and very ugly at this point in time. He thought there needed to be additional work. That wouldn't be the vision he would want if that was his first impression of moving into their complex, it wouldn't be a very pleasant one.

Mr. McCaffery replied it wouldn't be the first impression. They were forgetting to mention that one could chose to go in and take the elevators up. There were two elevators in the lovely lobby which would be high quality finishes in going to get the elevator. For those that don't want to wait on the elevator, they could just take the stairs. For those that didn't want to wait on the elevator, they could go up the stairs inside of Borders, they could go up stairs inside of Hard Rock, they could go up the stair inside of Gameworks. Each one of those tenants were two-level tenants, so each one connected to the second floor. The second stair that they were offering as a compromise was not meant to be the first class entrance, but they wouldn't let themselves down by leaving it as seen today.

Commissioner Krueger compared it to stairways seen in parking garages and that was what it reminded him of which were one of the more unpleasant stairways one could walk in, in downtown Minneapolis. His question was about the restrooms. On the tour, he asked about the two uni-sex restrooms which were sort of hidden off the main path, you would have to seek them out to know that they were there. Once one was there, how were they accessed and he was told you have to get a key to gain access.

Mr. McCaffery replied it had been suggested to him that they be keyed. They would have them keyed in case they needed to have them keyed. For as long as they didn't find that they were not the public benefit, but the public nuisance, they would be unlocked. They would not be locked.

Commissioner Krueger indicated that was different than what he was told on the tour, that he would specifically have to go to the ticket booth to get access. If there was a popular film showing, you would have to wait in line to get the key and bring it back to return it.

Mr. McCaffery replied that they were not going to do that. They would be lockable, they would not be locked.

Commissioner Krueger found it somewhat inadequate that was the solution that they were being presented of two uni-sex bathrooms. He also was concerned that staff found that acceptable as well. When he thought that there was a solution or resolution that was resolved on this, he thought there would be much more than just two uni-sex bathrooms on the second level.

Mr. McCaffery thought they were willing to participate with the Downtown Council in seeking a more broad solution. He hoped he was right in respect to what the young gentleman said, they didn't like to be pulling public amenities away. They wanted this to be a real public amenity. They wanted this to be a real public spot. He urged the Commission to consider the fact that there were a tremendous number of very public places in America that have no public wash rooms and the reason was because there was not that void in activity that encouraged you to do what you want, which was find an empty spot where no one was around and no one bothers you. This would be a lively block. Pantages will open and will be lively. Hopefully the Stinson building would open and be lively. He thought they would find this whole area reenergized. It didn't mean that it wouldn't then move the problem somewhere else. This had been an area that had attracted people that didn't have a lot to do because there was not much there to bother them.

Commissioner Krueger thought that partially those comments could turn out to be true and agreed somewhat, but he viewed it from an inconvenience standpoint as well, not just the necessary arrests for the public urination, but as a patron or a customer and have to go to some of these venues and pay cover to get in to use a restroom or be denied access or have to go get keys or put his ID in and get a key because he thought that was what would turn out to be reality. He thought it might depend upon what you look like and who you are if they were going to allow you into that facility or not.

Mr. McCaffery sincerely hoped Commissioner Krueger was wrong, but it may not be in some cases.

Commissioner Krause stated if there was a silver lining in this for him as a relatively new Commission Member was that this had really provided a crash course in how our development process works, or doesn't work in this case. He saw some benefit in that. He thought the reality was that things changed for the developer in the course of the project. When you start out with a basic concept and as you refine it, there was a need to make changes. Things also change for the City. What was lacking was a clear process for all sides to handle that evolving change in a project and do it in a thoughtful way. They could have dealt with all of these issues before, the problem they had now was that they were trying to do all of this at the 11th hour, almost the 12th hour. He wanted to specifically talk about the restroom issue. He didn't think it was fair to have this developer try to solve this solution on their own. They were going to contribute something to it, not a great deal, but something. He thought that the proposal that the Downtown Council had made in forming this Blue Ribbon Task Force was a good idea, where they do say in their letter from Sam Grabarski, "it is likely we will recommend more public restrooms in strategic locations through the central business district." He thought the Downtown Neighborhood Association (DMNA) should be represented on that. Just to have the Downtown Council doing it was not broad enough representation. A suggestion would be that the Downtown Council include some of the DMNA representatives on that Task Force. The bottom line was that he felt as if he had someone else's messes to clean up a little, but they had a project that was ready to go. He lived five blocks away from there and wanted to be there and go to a movie there in the next few weeks. He thought the Commission needed to move forward with what they had.

Commissioner Nestingen shared the concerns about the public toilets and didn't think Block E should solve them all. What bothered him even more was the access from 1st [Avenue]. He just didn't think it worked for 30,000 people coming in and out of the Warehouse District and Target [center] and he had not heard how the skyway interfaced the new skyway with Target [center]. They needed signage in Target [center] so that people could find the way.

Mr. McCaffery replied that they had coordinated the skyway with the Target people. Target was the City and there was reciprocal signage.

Commissioner Nestingen asked if they were able to get to the skyway inside Target either from the lobby?

Ms. Rom replied that there were executed skyway agreements between the owners of Target Center and the owners of City Center that governed the skyway being opened. The skyway ran right into Target Center. So when one leaves the game, if they chose to go by skyway across 1st Avenue North, and Hennepin, you just stay in the skyway and don't go down on the street. If by mistake, or not knowing about it, you can cross over 1st Avenue, go up either in the elevators or in the staircases. The bulk of the people would learn very quickly and would see the signage that they just cross the street in the extra wide skyway going from Target Center to...

Commissioner Nestingen asked if all of the double escalators in Target Center would allow one to go up if they were in the lobby and coming out of the ground floor out of the lower area of the Target?

Ms. Rom responded that the representatives from MCDA were available if the Commission wanted to ask them.

Commissioner Nestingen indicated that was a very important key. From the diagram, the stairs were very confusing. It was important to note that the first doors that you come to, the doors protruding to the Northwest, were the exit only doors. You have to go around the corner.

Ms. Rom replied that the doors that would be used as entrance doors were the doors closest to 6th.

Commissioner Nestingen asked at Hard Rock?

Ms. Rom stated that there were two separate doorways.

Mr. McCaffery replied that 6th was closet to [Gluek's], 7th was Hard Rock.

Ms. Rom indicated the drawings the Commissioner had were the doors right under the skyway level.

Mr. Antunovich indicated it was under the skyway level.

Commissioner Nestingen stated that the arrow and signage points to that door, but to the right you'll see a person walking and behind that person were a pair of doors. Those were exit doors from the opposite scissor stair.

Mr. Antunovich replied that was correct.

Commissioner Nestingen believed they would find a lot of people trying to get in those doors.

Mr. Antunovich stated that they had a lot of debate on this. That stair, and maybe they should get input on this, that stair would drop you off at the base of the escalators that go to the theaters on the skyway level (he displayed on the renderings). He showed the skyway level, if one was in Target and coming across, he showed the walk. That scissor stair, if you were to take that first door that Commissioner Nestingen was talking about, would actually put you out at the base of the stair going up to the theaters and the base of the escalators. They felt it was more important to have access to and from the skyway as close to the skyway as possible. The stair that they were illustrating would drop one right alongside the skyway right after crossing from Target. That was the rationale behind selecting the door that they did.

Commissioner Nestingen stated to his original question, the door was behind the gentleman walking in the diagram?

Mr. Antunovich replied yes.

Commissioner Nestingen asked if that was the first door that someone coming from Target would see? But they wouldn't be able to walk in there, correct?

Mr. Antunovich replied yes, those doors would not have hardware on the outside, they would be exit-only.

Commissioner Nestingen stated he wanted to redesign that entrance.

Mr. McCaffery noted that they were actually further away, unless you "jay" walk. You cross at the corner and as you go past, they were a little further away and the large neon sign would be there to say "skyway." They would be on an angle.

Byers, staff, indicated that he must make a clarification and a recommendation. In meetings that he and the Planning Director had with Fire Marshall Chief Deegan and also with Dan Callahan and Gail Manning of the Plan review section, since the July 8th hearing, they had cautioned them not to pursue modification of this stair well as a replacement for the escalator to the skyway system. What they said was that modification of this stairwell would create serious challenges in terms of fire safety in that stairwell from the rest of the building and that fire safety ideally would take someone from the upper floors of the building and take them directly to the ground floor of the project at the plaza level and that there would be a seamless connection through a fire stair and that there wouldn't be a change in the fire, safety and life saving capacity of that stairway on the first and second floors. They specifically told them that was something

they wished would not be pursued and that was why he had not made that recommendation. In the meantime, the developers representative Ms. Rom, had given them an Email that was to her from Fire Marshall Chief Deegan and in the end of that Email he had said he was given a tour as well, he had said that he thought that solution was workable, the solution that was being proposed tonight, that it was workable or could be made workable and that it was in fact preferable to what he had been earlier thinking. However, the text of that Email says that his approval was predicated upon approval of Dan Callahan from the Plan review section. Dan Callahan of the Plan Review section was not able to be contacted prior to the meeting because he was on vacation, Chief Deegan was out of the office, so staff was not able to contact and confirm with him. He had been told by Gail Manning of the Plan Review section that any approval of changes to this stairway would bring up serious issues about compliance with the Americans with Disabilities Act because the elevator was not proximate to the stairway, or it was proximate, but was not designed so that it was easily accessible for people with disabilities. He cautioned the Commission, any condition that the Planning Commission may chose to make to adopt or approve this recommended change should come with the condition that it was acceptable to other units of the City, particularly Plan Review and the Fire Department, most specifically, so that the City was not sending different messages and signals about what was approvable.

Vice President Bradley indicated that the public hearing was closed and all of the Commissioners had spoken, so he needed to say two things. The first was, this meeting had been extremely calm, he thought they would be yelling, etc. He knew everyone read his statement about getting his suit of armor. This project, while he hadn't been nearly as directly involved as any of you [staff and developer], what he heard was a roller coaster, a lot of screaming people going in the tunnels. He thought the reason it had been nice was because they were all walking on egg shells. They had seen legal opinions and what they should say and can't say. They knew that there was a massive fragmented process that they had to go through, it probably made them crazy, it probably made us crazy. We might get it fixed in our lifetime, but he wasn't putting a lot of money there. For him, he didn't care if they wanted to look at him as a Planning Commissioner or as a private citizen, the saddest thing about this development was the elimination of the escalators, period. There was not a person in Minnesota who would not have embraced enclosed escalators. Maybe they were more provincial than the places they went to ski and the nations capital and maybe they needed to show the guys from St. Paul that they could work outside, because that was the code we had to operate under. He thought the elimination of the escalators was creating a massive circulation problem that was challenging the developer and made it hard to resolve. He thought the escalators would have taken pedestrians foot traffic off of 1st Avenue, put it in the skyway system, not to avoid going around the building. They could have used the second story entrances to the two-story tenants. They could have left the second story of any one of these tenants and come out and gotten down on 1st Avenue and walked into the Warehouse District. He thought it was a sad decision. That was his opinion.

Commissioner Schiff stated that it was brought to his attention at several points in the past several weeks that a marquee sign on Hennepin Avenue side of the project that lists the movie that would be showing was not supposed to be there according to the lease that had been signed with Crown Theaters. Specifically, there was the big banner that said Crown, but there was also in the pictures the little signs that showed the movies and he understood in the lease with Crown, it was not required of them to maintain that sign?

Vice President Bradley asked Mr. Byers to respond.

Byers, staff, replied his understanding from meetings with the developer was that Crown Theater did not have the intention or does not chose to advertise the movies that they were currently playing or movies that they might be playing in the future on the marquee and that there was a suggestion from Crown to the developer that the marquee be eliminated from the project. The developer mentioned that in meetings with he and the Planning Director and they stated concern about that. The negotiated response in those meetings was that the marquee itself would be built, but that the developer requested that the City take no specific action to ensure that Crown Theaters actually used the marquee to advertise their movies.

Commissioner Schiff stated what he was going to do wouldn't require Crown Theater to do anything. It would require the operators of the facility to do something, which was to maintain the sign and list the movies. They could renegotiate their lease with Crown Theater, but if not, there was nothing that stopped the operator of Block E Interest, Incorporated from running a sign that advertised the movie theater. He was old fashioned and thought people should be able to walk down their city streets and look at a movie theater and know what movies were showing on the inside of their buildings. The proposal that had been shown to the Planning Director also proposed shifting this tenant signage to leasable space and he didn't think that was acceptable in this instance.

Vice President Bradley asked if the signage was before the Commission or was it coming before them later?

Byers, staff, replied that the approval for the signage would stand from the original recommendation from May, 2000 and a new signage plan had been submitted to the Planning Director. The Planning Director had reviewed that plan, but to his knowledge had not accepted it. Maybe he could speak to that.

Commissioner Schiff indicated in that proposal, they proposed changing this tenant signage to leasable space.

Byers, staff, replied that was correct. They were told, he believed by MCDA, in meetings that Crown Theaters believed that these days, in these times, people planned to see a movie, they didn't just happen into a movie theater to see a movies and therefore they didn't think it was necessary to advertise movies. However, Planning Staff did make the point in meetings and in discussions with MCDA and the developer that the State Theater and the Orpheum Theater advertised the shows that were being played there and very few people just happened in to those shows, people usually planned to buy a \$50-60 theater ticket. But as part of the streetscape and part of the signage district, people advertise the shows that were playing in those theaters.

Director Ballentine stated that he had drafted a letter approving the sign package as resubmitted by the developer. He would need to discuss the matter with Commissioners and consult with the developer about that possibility. They certainly had the opportunity. The specific language of the master sign plan allowed discretion on the part of the Planning Director and certain types of signs needed to come back to the Planning Commission and the Council. He would review that matter with the Commission and the developer.

Commissioner Schiff motioned, Krause seconded to add in items #45 and #46 to condition 6, a) Marquee signs on the Hennepin Avenue façade of the Project will be considered "tenant signage" and will be used only for the specific purpose of advertising upcoming and/or current feature films or other events that will be or are currently taking place within the theater tenant space on the 3rd and 4th floors of the Project. Marquee signs will be changed on a regular basis at the discretion of the tenant of the theater space according to upcoming and/or current feature films or other events that will be, or are currently taking place within the theater tenant space. In the event that the theater tenant space is vacant, during the duration of the vacancy, the marquee sign will be used to advertise other upcoming and/or current events that will be or are currently taking place within the Project.

Commissioner Schiff indicated as someone who goes to the movies a lot, he happened by theaters all the time. He thought that was an important element.

The motion to amend the conditions to include a new condition 6a (as specified above) **carried**.

Commissioner Krause motioned to adopt the findings prepared by staff and **approve** the application with the amendments as proposed by the developer with two additional changes: 12) **Canopies cantilevered from the building with heating and lighting** ~~Freestanding bus shelters~~ on North 6th and North 7th are an acceptable substitute for the indented shelters depicted in the plan approved on May 15, 2000.

11a) Staircase(s) from the plaza on First Avenue to provide full access by general public to the skyway system **will be an acceptable substitute for the exterior escalators, subject to final approval of the Fire Department and Plan Review.**

Vice President Bradley clarified that Commissions Krause's motion was to move all of the amendments submitted by the Block E interests?

Commissioner Krause replied yes, with two changes, in condition 11a and condition 12, strike freestanding and insert "Canopies cantilevered from the building with heating and lighting on North 6th and North 7th Street are an acceptable substitute...."

Vice President Bradley asked if he wanted it to specify cantilevered or let them [the applicant] figure out what the construction details should be? How much micro-managing are we going to do?

Commissioner Krause replied just canopies. It would read, "12) **Canopies with heating and lighting** ~~Freestanding bus shelters~~ on North 6th and North 7th are an acceptable substitute for the indented shelters depicted in the plan approved on May 15, 2000."

Byers, staff, indicated that Planning Staff and the City Attorney's Office recommend that the condition not read the Fire Department and Plan Review Section, but, "any other necessary regulatory approvals brought forth by any other City Departments."

Commissioner Krause replied he would accept that as a friendly amendment to his language.

Commissioner LaShomb made a motion to divide the motion with one, two and three of the proposed [developer] amendments in one motion and the last three to be voted on separately.

Vice President Bradley clarified that Commissioner LaShomb was referring to the sheet distributed by Ms. Rom?

Commissioner LaShomb replied yes.

Vice President Bradley clarified that the Commission would begin acting on item #45, including conditions 1-10 with the modifications as submitted by the developer.

Commissioner Young seconded Commissioner Krause's motion to:

Adopt the findings and **approve** the amendment for the CUP/PUD with the following conditions (conditions that are underscored are new or modified; the other conditions are those imposed when the application was originally approved) **Bold are changes at the meeting:**

- 1) All required City permits shall be obtained prior to the issuance of the certificate of occupancy;
- 2) The Project must meet all State Building Code Requirements and all other applicable codes and ordinances prior to the owner occupying the site;
- 3) The Developer will consult with the Public Works Department and the Planning Department to refine:
 - a) Pedestrian and vehicular circulation on the First Avenue side;
 - b) The public spaces along First Avenue;
 - c) The entrance on Hennepin Avenue shall have a stronger vertical connection;
 - d) The public space on the Seventh Street side;
 - e) The fenestration of the third and fourth floors;
 - f) To provide exterior windows in the food court area;
 - g) **The skyway and lobby areas will be fully accessible to the general public during the Uniform Skyway Hours; no admission fee is required for access**
~~uses of space within and surrounding the theater lobby on the west side of the second floor (where the food court had previously been located) must be defined and programmed in order to provide a safe, active space during the length of the Skyway System Uniform Hours Program. This space must be fully accessible to the general public during the length of the Skyway System Uniform Hours Program. No admission fee will be required for access to this space;~~
- 4) No more than 35% of the spaces in the parking garage will be long term parking for the first 5 years of the project;
- 5) The Project must include a total of four (4) large loading berths and a separate, additional trash compactor unit(s) - all of which are located in an underground facility. The developer shall file a shared use agreement in the county lands record office in accordance with Minneapolis Zoning Code Section 541.510;

- 6) All on-premise signs be granted within the guidelines suggested by staff in the Master Sign Plan and must refer directly to businesses in the building. All other signs, not directly related to the businesses, shall come back before the City Planning Commission in accordance with the Master Sign Plan agreement. There shall be no signage referencing adult uses, gambling, cigarette/tobacco;
 - a) **Marquee signs on the Hennepin Avenue façade of the Project will be considered "tenant signage" and will be used only for the specific purpose of advertising upcoming and/or current feature films or other events that will be or are currently taking place within the theater tenant space on the 3rd and 4th floors of the Project. Marquee signs will be changed on a regular basis at the discretion of the tenant of the theater space according to upcoming and/or current feature films or other events that will be, or are currently taking place within the theater tenant space. In the event that the theater tenant space is vacant, during the duration of the vacancy, the marquee sign will be used to advertise other upcoming and/or current events that will be or are currently taking place within the Project.**
- 7) This PUD includes a conditional use permit for the operation of a parking facility of approximately 563 parking spaces;
- 8) All site improvements shall be completed by September 30, 2003 or the permit may be revoked for non-compliance;
- 9) The escalator located at the center of the second floor concourse will remain in the project subject to the tenants in ground floor spaces (G) and/or (K) providing public access through tenant space linking escalator to sidewalks adjacent to building. In the event that ground floor tenants choose not to provide public access through tenant space linking escalator to those sidewalks adjacent to the building, the escalator will be removed. Developer to define the means through which the open escalator connection will be secured in the event that tenant hours do not conform with the Skyway System Uniform Hours Program;
- 10) Public restrooms (located outside of tenant spaces) will be incorporated into the second floor of the building and shall be directly adjacent to the public concourse and directly accessible from the public concourse. Public restrooms must be fully accessible to the general public during the length of the Skyway System Uniform Hours Program;

Director Ballentine asked if the motion included condition 6a and wanted to be sure Commissioners understood that was a part of the motion?

Commissioner Krause replied yes, that was a part of the motion.

Commissioner Krueger made a friendly amendment to condition #10 regarding the public restrooms that it say a minimum of four public restrooms.

Commissioner Krause did not consider that a friendly amendment.

The motion to **approve** the conditional use permit for the planned unit development, with conditions 1-10 as listed above **carried**, Commissioner Krueger voted no.

Vice President Bradley indicated that conditions 11, 11a and 12 remained.

Commissioner LaShomb motioned, Young seconded to approve condition 11 as follows: “11) The ground floor public concourse (that which was intended to connect building entrances from Hennepin Avenue and from First Avenue North) will be eliminated from the project as depicted in drawings dated June 21, 2002. Public access to the skyway level of the building - through vestibules on the Hennepin Avenue and First Avenue sides of the building - will remain. Access to these entrance vestibules will conform to the Skyway System Uniform Hours Program. Internal building signage will indicate and clearly delineate the access relationships between each chamber of the parking ramp and each of the internal concourses and vestibules in the public spaces of the above-ground building. Each exterior door of the building that lead to and from the ground floor vestibules on the Hennepin Avenue and First Avenue North sides of the building will be affixed with the City standard “Blue Waters” signage indicating access to the Skyway System within.”

Commissioner LaShomb believed conditions 11a and 12 needed to be discussed separately.

The motion to approve condition 11 **carried.**

Commissioner LaShomb stated that he looked at the stairwells and at first he thought it was fine and would solve the problems, but he wasn't sure. He thought there was a big mistake being made regarding the escalators. He thought the future of the Warehouse District would bring a lot of people down there. He had a gut feeling that there was someone in this project who didn't want somebody to get into that building so they would make it hard by making them take an elevator or taking bad stairs. It was like Detroit in the 1950's and 60's where they built beautiful cars and someone said that maybe they should have fins on them because they didn't do a thing, but they would be a better car. The escalators were important. He had gotten mixed reports about whether the escalators could be put in. He had heard some people say, no the footings weren't there, and someone else told him on the tour the other day that they could be put in. He thought the business with Fire Marshals and State Inspectors was a bunch of "rigamaroo", the escalator should be put in and he thought the Planning Commission should stand by that decision. But if they wanted to retreat and go back and allow people to go up dull, dirty stairs that met the Fire codes, fine with him, but he wouldn't.

Commissioner LaShomb motioned, Schiff seconded to use the staff recommended condition for item #11 as follows: 11) The external escalators on the First Avenue side of the project, depicted in previously approved drawings dated May 4, 2000 will be constructed with the appropriate weather enclosures. Building plans for pedestrian links to and from these escalators will be modified as necessary to allow for full access by the general public to the Skyway System. Full public access to external escalators will conform to the Uniform Hours Program for the Skyway System.

Commissioner Krause stated that he didn't want it to stand on the notion that the escalators were the preferred design because he didn't think they were. He thought that the attempts to funnel all of the traffic coming out of the building up to the second level was a mistake. That was one of the problems downtown was that we try to sustain a street level of activity and a second story level of activity. To try to funnel as much of that traffic off of the street and away from the front doors that the developer had created all the way around the block

and into an interior to him, was first of all not in character with the rest of the Warehouse District. There are not other projects like that. Second of all, he thought that created more of a suburban mall affect that they would get by not having the escalators there in the first place. The third reason was that it was his understanding that to put those escalators in, which would be at considerable expense at this point, would also eliminate a lot of the public plaza area and the fountain area. They would be giving that up in order to get escalators which in his opinion were of dubious merit as an urban design feature.

Commissioner Krueger wanted to be sure he was recorded as voting no on the first vote that the Commission took.

Commissioner Schiff indicated that a lot of the things that Commissioner Krause said were true and he didn't think he liked either of the options before the Commission. He didn't think the escalators were necessarily perfect for the reasons that he mentioned, but this wasn't going to cut-it. He thought the developer should re-think that whole entrance and come back with new drawings. Perhaps that could be amended by the time this goes through Council. This wasn't going to do it. There was a serious circulation problem and there were other solutions that would improve circulation and access the way they needed it for this project.

Vice President Bradley clarified that the motion on the floor to move the staff recommendation for condition 11a.

Commissioner Young asked if the Commission went to just the staircases, what were the disabled supposed to do?

Vice President Bradley replied that there was an elevator in a lobby.

Commissioner Young indicated being a person who has a problem with stair cases, she had looked forward to the escalator idea considering she lived close to Hiawatha and Lake and they were going to have an outside escalator at the LRT stop. She had a feeling that they were "throwing the baby out with the bath water" and not thinking about some solutions. She wanted to give the developer the option of trying to figure out if they could get an escalator in there. She thought it was a unique and useful tool for moving people and hated to throw it out. She hated the idea of climbing stairs and waiting for the elevator and what if a person was at the wrong entrance and a distance from the elevators and had to walk all over to get to the third or fourth floor. She wanted the Commission to think about the escalators.

Vice President indicated that the Commission had before them the motion to approve the staff recommendation on item 11a to request that the developer put in the previously approved escalators.

The motion to approve staff recommended condition "11a) The external escalators on the First Avenue side of the project, depicted in previously approved drawings dated May 4, 2000 will be constructed with the appropriate weather enclosures. Building plans for pedestrian links to and from these escalators will be modified as necessary to allow for full access by the general public to the Skyway System. Full public access to external escalators will conform to the Uniform Hours Program for the Skyway System" **carried**, Commissioner Krause voted no.

Vice President Bradley indicated the remaining condition was #12.

Commissioner LaShomb motioned, to approve the staff recommendation: “12) freestanding bus shelters on North 6th Street and North 7th Street are not an acceptable substitute for the indented shelters depicted in the original plans approved by the Planning Commission on May 15, 2000”

Commissioner LaShomb stated that he thought there should be discretion on whether they had canopies or shelters. When he walked over there and looked at the street his reaction was that by putting the canopy there and having people stand under it, you were forcing people who were walking by closer to the curb. In the winter time, that was when his suits got dirty when people drove by and he would like a little shelter or buffer there. He thought he could go either way on this and didn't think the Commission ought to tie them down and say that it had to be a canopy. You can light a canopy, but the way he thought it would look was that there would be a thing over the top and some plastic things on each side and he didn't think that would retain heat. If they were going to talk about canopies that would retain heat, he thought a shelter was a better thing to have. If the other Commissioners wanted to have a canopy, he would vote no and get on with life.

Vice President Bradley reiterated that Commissioner LaShomb's motion was to approve the staff recommended condition #12.

Commissioner LaShomb clarified that his motion was to approve the developers substitute language.

Vice President Bradley indicated that motion was, “Canopies with heating and lighting on North 6th and North 7th Street are an acceptable substitute for the indented shelters depicted in the plans approved on May 15, 2000.”

Commissioner Schiff seconded.

A voice vote was taken.

Yea:	LaShomb, Nestingen and Schiff - 3
Nay:	Krause, Krueger and Young -3
Absent:	Hohmann, Johnson and Martin -3.
Not Voting:	Bradley - 1.

Vice President Bradley stated that there would be a roll call vote taken.

Commissioner Schiff stated as a point of clarification when the Commission started earlier, he thought that this was one of the areas where they agreed with staff. He did not understand why this was a divided issue. He asked Mr. Byers to clarify if the developer was in agreement with staff on the substitute motion.

Byers, staff, replied it was his understanding of the motion that Ms. Rom suggested that he believed the minutes would ultimately show, that on this issue, the substitute motion would be that freestanding shelters *or* cantilevered canopies would be acceptable. His understanding of the motion that Vice President Bradley just spoke of would be that it would be cantilevered canopies *instead of* shelters. He believed that needed to be clarified by the Commission.

Vice President Bradley indicated he would clarify. They had a discussion at the Committee of the Whole where Michael Orange showed the Commission that the bus shelter would create an impact on the sidewalk that would get people walking between the bus shelter and the building in single file.

Byers, staff, replied that he understood what Vice President Bradley was saying and recognized it, the point he was bringing forward was that the motion as the Commission just discussed it, was not in compliance with the way Ms. Rom suggested it. The Commission was saying that they were in compliance when they were not.

Vice President Bradley stated that he never brought up compliance. What he brought up, and his understanding based on Michael Orange's presentation to the Committee of the Whole was that there would be less room for pedestrians to pass whether there was a bus coming or not because there would be built structures on a sidewalk that was 15-17 feet wide. This Commission said to eliminate the free-standing bus shelters and go with the canopy so they could get the people against the building and still have room on the sidewalk for those people who wanted to use the sidewalk. He asked where the confusion was?

Commissioner Schiff indicated that he understood Commissioner LaShomb to make a motion that he was in agreement with Ms. Rom's suggestions.

Commissioner LaShomb replied that was correct.

Vice President Bradley stated that they modified those suggestions.

Commissioner Schiff indicated that they modified them by Commissioner Krause's suggestion of removing the "or freestanding bus shelters."

Vice President Bradley indicated it would start with the word "canopies."

Commissioner Schiff indicated that he was moving the original "freestanding bus shelters or canopies."

Vice President Bradley stated that he thought Commissioner Krause made a motion, that the Commission voted on, that the new language would be "canopies" only.

Stegora-Peterson, staff, noted that the conditions were separated and the Commission was voting on them separately.

Vice President Bradley indicated that the condition 12 substitute put forth by the developer said, “freestanding or bus shelters.” The Commission voted to eliminate the words, “free standing bus shelters” and that the substitute language was “canopies.” The Commission voted on that. Commissioner LaShomb moved the language forward that said, “Canopies on North 6th and 7th Street...”

Commissioner LaShomb stated he could withdraw his motion.

Commissioner Schiff believed that the earlier motion by Commissioner Krause was not attached to the actual adoption. They merely changed language on a motion which was edited without being adopted. A different motion was put on the table by Commissioner LaShomb.

Vice President Bradley stated that Commissioner LaShomb put this (held up Ms. Rom’s amendment) on the table.

Commissioner Schiff indicated that he put Ms. Rom’s language on the table.

Vice President Bradley asked Commissioner LaShomb’s input. He was under the impression that the language had been changed.

Commissioner LaShomb apologized, what he wanted to propose was the language noted on the handout as substitute for condition 12 and he would propose it as it was proposed by the developer.

Commissioner Krueger seconded.

Commissioner Krause clarified that a yes vote on Commissioner LaShomb’s motion gave the developer the option of having either the canopies or the bus shelters. If that motion did not prevail, then he would offer another motion that would be canopies only which said that they did not want to do the bus shelters because of the problems that were noted in the Committee of the Whole discussion.

Vice President Bradley asked if there was a second [to Commissioner LaShomb’s motion]?

Commissioner Krueger seconded.

Michael Orange, staff, stated after the Commission made their decision, the project came back to the Planning Department to approve final plans. His recommendation to the Planning Director would be to not approve a project that included bus shelters as proposed and they would come back to this dilemma. He urged the Commission to make a decision one way or the other. Do not leave it up in the air. If you want a shelter, please vote for shelter. If you want a canopy, please vote for a canopy.

Vice President Bradley asked Commissioner LaShomb what he wanted to do.

Commissioner LaShomb stated that he looked at this street and if you put a canopy there, that's great. If you just have an overhang, fine, the sidewalk would not be obstructed. But that wasn't what he thought people were talking about with canopy. He thought they were also talking about some sort of things on the side to block the wind. His reaction was that was fine, every time a snow plow goes by it would throw "God only knows what" into that precipice, so that would be really beautiful for the customer. It would stick out and people would have to walk around it anyway and then most pedestrians would be between the plastic and the street. The Met Transit staff was at the meeting earlier and he wished they could have stayed because he would have asked their guidance. He thought they could build a bus shelter on that site and that there would be plenty of room. He would rather, if he were walking down the street, be between the shelter and the building than between the shelter and the street, but that was what they all had to think about.

Vice President Bradley asked Commissioner LaShomb if there were no plastic sides to the canopy would that matter?

Commissioner LaShomb replied no.

Vice President Bradley asked if Commissioner LaShomb wanted to withdraw his motion?

Commissioner LaShomb withdrew his motion.

Commissioner Krause motioned, Nestingen seconded to approve the following language for condition #12: "12) **Canopies with heating and lighting** ~~Freestanding bus shelters~~ on North 6th and North 7th are an acceptable substitute for the indented shelters depicted in the plan approved on May 15, 2000."

The motion carried with the following roll call vote:

Yea:	Krause, Nestingen, Schiff and Young - 4.
Nay:	Commissioner Krueger and LaShomb - 2.
Absent:	Hohmann, Johnson and Martin - 3.
Not Voting:	Bradley - 1.

Vice President Bradley indicated he hoped they wouldn't put sides on the shelter.

Commissioner Nestingen concurred.

46. **Block bounded by Hennepin Avenue, North 6th Street, First Avenue North, and North 7th Street (5th Ward - CU-1000142) (BZZ-719)**

Application by Block E Interests, LLC for amendment of a conditional use permit to allow a non residential conditional use. The developer's application calls for the following: hotel, including ballroom and conference center; cinema complex; retail, including four to six restaurants; underground parking garage of approximately 563 spaces; loading facilities, stairs/mechanical; interior public space; and, exterior public plazas. This item was continued at the July 8, 2002 meeting. (Staff, Jack Byers)

The public hearing was opened.

See discussion in item #45 above.

The public hearing was closed.

Commissioner Schiff motioned, Nestingen seconded to adopt the findings and **approve** the amendment for the CUP with the following conditions (conditions that are underscored are new or modified; the other conditions are those imposed when the application was originally approved):

- 1) All required City permits shall be obtained prior to the issuance of the certificate of occupancy;
- 2) The Project must meet all State Building Code Requirements and all other applicable codes and ordinances prior to the owner occupying the site;
- 3) The Developer will consult with the Public Works Department and the Planning Department to refine:
 - a) Pedestrian and vehicular circulation on the First Avenue side;
 - b) The public spaces along First Avenue;
 - c) The entrance on Hennepin Avenue shall have a stronger vertical connection;
 - d) The public space on the Seventh Street side;
 - e) The fenestration of the third and fourth floors;
 - f) To provide exterior windows in the food court area;
 - g) **The skyway and lobby areas will be fully accessible to the general public during the Skyway System Uniform Hours Program; no admission fee is required for access** ~~uses of space within and surrounding the theater lobby on the west side of the second floor (where the food court had previously been located) must be defined and programmed in order to provide a safe, active space during the length of the Skyway System Uniform Hours Program. This space must be fully accessible to the general public during the length of the Skyway System Uniform Hours Program. No admission fee will be required for access to this space;~~
- 4) No more than 35% of the spaces in the parking garage will be long term parking for the first 5 years of the project;
- 5) The Project must include a total of four (4) large loading berths and a separate, additional trash compactor unit(s) - all of which are located in an underground facility. The developer shall file a shared use agreement in the county lands record office in accordance with Minneapolis Zoning Code Section 541.510;

- 6) All on-premise signs be granted within the guidelines suggested by staff in the Master Sign Plan and must refer directly to businesses in the building. All other signs, not directly related to the businesses, shall come back before the City Planning Commission in accordance with the Master Sign Plan agreement. There shall be no signage referencing adult uses, gambling, cigarette/tobacco;
 - a) **Marquee signs on the Hennepin Avenue façade of the Project will be considered "tenant signage" and will be used only for the specific purpose of advertising upcoming and/or current feature films or other events that will be or are currently taking place within the theater tenant space on the 3rd and 4th floors of the Project. Marquee signs will be changed on a regular basis at the discretion of the tenant of the theater space according to upcoming and/or current feature films or other events that will be, or are currently taking place within the theater tenant space. In the event that the theater tenant space is vacant, during the duration of the vacancy, the marquee sign will be used to advertise other upcoming and/or current events that will be or are currently taking place within the Project.**
- 7) This PUD includes a conditional use permit for the operation of a parking facility of approximately 563 parking spaces;
- 8) All site improvements shall be completed by September 30, 2003 or the permit may be revoked for non-compliance;
- 9) The escalator located at the center of the second floor concourse will remain in the project subject to the tenants in ground floor spaces (G) and/or (K) providing public access through tenant space linking escalator to sidewalks adjacent to building. In the event that ground floor tenants choose not to provide public access through tenant space linking escalator to those sidewalks adjacent to the building, the escalator will be removed. Developer to define the means through which the open escalator connection will be secured in the event that tenant hours do not conform with the Skyway System Uniform Hours Program;
- 10) Public restrooms (located outside of tenant spaces) will be incorporated into the second floor of the building and shall be directly adjacent to the public concourse and directly accessible from the public concourse. Public restrooms must be fully accessible to the general public during the length of the Skyway System Uniform Hours Program;
- 11) The ground floor public concourse (that which was intended to connect building entrances from Hennepin Avenue and from First Avenue North) will be eliminated from the project as depicted in drawings dated June 21, 2002. Public access to the skyway level of the building - through vestibules on the Hennepin Avenue and First Avenue sides of the building - will remain. Access to these entrance vestibules will conform to the Skyway System Uniform Hours Program. Internal building signage will indicate and clearly delineate the access relationships between each chamber of the parking ramp and each of the internal concourses and vestibules in the public spaces of the above-ground building. Each exterior door of the building that lead to and from the ground floor vestibules on the Hennepin Avenue and First Avenue North sides of the building will be affixed with the City standard "Blue Waters" signage indicating access to the Skyway System within;

- 11a) The external escalators on the First Avenue side of the project, depicted in previously approved drawings dated May 4, 2000 will be constructed with the appropriate weather enclosures. Building plans for pedestrian links to and from these escalators will be modified as necessary to allow for full access by the general public to the Skyway System. Full public access to external escalators will conform to the Uniform Hours Program for the Skyway System; and,
- 12) **Canopies with heating and lighting** ~~Freestanding bus shelters~~ on North 6th and North 7th are an acceptable substitute for the indented shelters depicted in the plan approved on May 15, 2000.

Commissioner Krueger voted no.

47. **Block bounded by Hennepin Avenue, North 6th Street, First Avenue North, and North 7th Street (5th Ward - SP-1000138) (BZZ-719)**

Application by Block E Interests, LLC for approval of an amended site plan of a mixed use development. The developer's application calls for the following: hotel, including ballroom and conference center; cinema complex; retail, including four to six restaurants; underground parking garage of approximately 563 spaces; loading facilities, stairs/mechanical; interior public space; and, exterior public plazas. This item was continued at the July 8, 2002 meeting. (Staff, Jack Byers)

The public hearing was opened.

See discussion in item #45 above.

The public hearing was closed.

Commissioner Schiff motioned, Nestingen seconded to adopt the findings and **deny** the application to amend the site plan and adopted the following conditions to clarify the original approval (conditions that are underscored are clarifications; the other conditions are those imposed when the application was originally approved):

- 1) The Planning Department shall approve the final site plan, landscaping plan, and lighting plans consistent with the plans dated May 4, 2000;
- 2) The final site plan will reference final lighting plans and indicate method for achieving full compliance with requirement concerning the lighting of pedestrian walkways. Final lighting plan shall conform to the requirements of Chapter 535 and Chapter 541 of the Minneapolis Zoning Code. Final lighting plans will be consistent with the final specifications of the Hennepin Avenue Theatre District Streetscape project (which is currently in the engineering/design development phase);
- 3) All streetscape elements (including furniture, landscaping, and lighting) must comply with the *Hennepin Avenue Theatre District: Building an Urban Identity: A Guidebook for Streetscape and Architectural Development* which was approved by the City Planning Commission on May 1, 2000 and is currently in the engineering/design development phase;

- 4) The freestanding transit shelter located on the Hennepin Avenue side of the Project will be built according to the design established by MetroTransit for shelters along Hennepin Avenue. (The Hennepin Avenue bus shelters were designed in accordance with the *Hennepin Avenue Theatre District: Building an Urban Identity: A Guidebook for Streetscape and Architectural Development* and were approved by the City Planning Commission on May 1, 2000 as part of the streetscape project). Construction of freestanding shelter (in compliance with MetroTransit design) is the responsibility of the Developer;
- 5) Final site plan shall conform to the principles of crime prevention through environmental design (CPTED) as stated in Chapter 530.370 of the Minneapolis Zoning Code;
- 6) The ground floor public concourse (that which was intended to connect building entrances from Hennepin Avenue and from First Avenue North) will be eliminated from the project as depicted in drawings dated June 21, 2002. Public access to the skyway level of the building - through vestibules on the Hennepin Avenue and First Avenue sides of the building - will remain. Access to these entrance vestibules will conform to the Skyway System Uniform Hours Program. Internal building signage will indicate and clearly delineate the access relationships between each chamber of the parking ramp and each of the internal concourses and vestibules in the public spaces of the above-ground building. Each exterior door of the building that lead to and from the ground floor vestibules on the Hennepin Avenue and First Avenue North sides of the building will be affixed with the City standard "Blue Waters" signage indicating access to the Skyway System within;
- 7) The external escalators on the First Avenue side of the project, depicted in previously approved drawings dated May 4, 2000 will be constructed with the appropriate weather enclosures. Building plans for pedestrian links to and from these escalators will be modified as necessary to allow for full access by the general public to the Skyway System. Full public access to external escalators will conform to the Uniform Hours Program for the Skyway System; and,
- 8) **Canopies with heating and lighting** ~~Freestanding bus shelters~~ on North 6th and North 7th are an acceptable substitute for the indented shelters depicted in the plan approved on May 15, 2000; and,
- 9) All site improvements shall be completed by September 30, 2003 or the permit may be revoked for non-compliance.

Commissioner Krueger voted no.